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In re Application of
TOMASSEN et al.
Application No.: 09/743,155
PCT No.: PCT/NL99/00424
Int. Filing Date: 05 July 1999
Priority Date: 06 July 1998
Attorney Docket No.: 3135-010012
For: MOULD, ENCAPSULATING DEVICE
AND METHOD OF ENCAPSULATION

DECISION ON PETITION

This is a decision in response to applicants' "Petition to Withdraw Holding of Abandonment" which is being treated as a petition under 37 CFR 1.181 filed in the United States Patent and Trademark Office on 24 June 2002.

BACKGROUND

On 05 July 1999, applicants filed the above-captioned international application which claimed a priority date of 06 July 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 January 2000. A proper Demand was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 06 January 2001.

On 05 January 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a copy of the international application; and a preliminary amendment.

On 14 March 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the \$130.00 surcharge for filing after the thirty-month period were required. The notification set a ONE (1) MONTH period for response.

On 03 June 2002, the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 14 March 2001 within the time period set therein.

On 24 June 2002, applicants filed present petition to withdraw the holding of abandonment.

DISCUSSION

Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The evidence submitted by applicant and the post card receipt identifies the application by applicant, application serial number, and docket number. The receipt itemizes, inter alia, an Executed Declaration and Power of Attorney. The receipt is stamped "PCT/PTO 22 March 2001" across its face is sufficient to indicate that the declaration of the inventors was in fact received in the Office on 22 March 2001.

A review of the application file reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have been completed.

CONCLUSION

Applicant's petition is GRANTED. In view of the receipt of the declaration filed 22 March 2001, which was a timely response to the Notification of Missing Requirements mailed 14 March 2001, the Notification of Abandonment mailed 03 June 2002 was in error and is hereby VACATED.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 05 July 1999 and a date of **22 March 2001** under 35 U.S.C. 371.



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